

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Northland Cable Properties VII, LP
Operator of Cable System in Sandersville/
Tennille, Georgia
Seattle, Washington

)
)
)
)
)
)
)

File Number EB-03-AT-061
NAL/Acct. No. 200332480026
FRN: 0004-5222-98

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 10, 2003

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Northland Cable Properties VII, LP ("Northland") willfully and repeatedly violated Section 76.605(a)(12) of the Commission's Rules ("Rules")¹ and willfully violated Section 76.611(a)(1) of the Rules² relating to cable television signal leakage. We conclude that Northland Cable Properties VII, LP is apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

II. BACKGROUND

2. On March 5, 2003, an agent from the FCC Enforcement Bureau's Atlanta Field Office conducted a cable television signal leakage inspection of Northland's cable system located in Sandersville and Tennille, Georgia. The agent found that, at thirty-eight locations, cable signal leakage on the frequency 121.2625 MHz significantly exceeded 20 microvolts per meter ($\mu\text{V/m}$) at a distance of at least three meters from each leakage, in violation of Section 76.605(a)(12) of the Rules. The measured leaks ranged from 84 $\mu\text{V/m}$ to 931 $\mu\text{V/m}$. Based on these measurements, the agent calculated the system's cumulative leakage index ("CLI") at a value of 68.9, exceeding the allowed cumulative signal leakage performance criteria of 64, in violation of Section 76.611(a)(1) of the Rules.³ (See Attachment A.)

3. On May 8, 2003, the agent interviewed Northland's Vice-President of Technical Services who stated that the company's subsequent inspection of the system found numerous leaks exceeding the

¹ 47 C.F.R. § 76.605(a)(12).

² 47 C.F.R. § 76.611(a)(1).

³ The calculated CLI included only leaks greater than 50 $\mu\text{V/m}$, included leaks found in only 15 miles or 27% of the system inspected, and assumed no leaks in the 73% of the system not checked.

Commission's radiation limits and that the Sandersville cable system was an old system.

III. DISCUSSION

4. Section 76.605(a)(12) of the Rules requires cable operators to limit signal leakage in the frequency band from 54 MHz up to and including 216 MHz to 20 $\mu\text{V/m}$ at a distance of 3 meters. On March 5, 2003, Northland exceeded this limit at thirty-eight locations on its system in Sandersville and Tennille, Georgia. Section 76.611(a)(1) of the Rules requires cable operators to limit the CLI to a value at or below 64. On March 5, 2003, Northland's cable system in Sandersville and Tennille, Georgia operated with a CLI value of 68.9.

5. Based on the evidence before us, we find that on March 5, 2003, Northland Cable Properties VII, LP willfully⁴ and repeatedly⁵ violated Section 76.605(a)(12) of the Rules, and willfully violated Section 76.611(a)(1) of the Rules.

6. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for the violations cited in this notice is \$8,000 (violation of rules relating to distress and safety frequencies).⁶ Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁷ Considering the entire record and the factors listed above, this case warrants an \$8,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁸ and Sections 0.111, 0.311 and 1.80 of the Rules,⁹ Northland Cable Properties VII, LP is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for willful and repeated violation of Section 76.605(a)(12) of the Rules and willful violation of Section 76.611(a)(1) of the Rules.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ The term "repeated" means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

⁶ 47 C.F.R. § 1.80(b)(4).

⁷ 47 U.S.C. § 503 (b)(2)(D).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80.

within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Northland Cable Properties VII, LP SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment MUST INCLUDE the NAL/Acct. No. and FRN referenced in the letterhead above.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment B of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment B, please contact OCBO at (202) 418-0990.

¹⁰ See 47 C.F.R. § 1.1914.

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by regular mail and Certified Mail Return Receipt Requested to Northland Cable Properties VII, LP, 1201 Third Avenue #3600, Seattle, WA 98101.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

ATTACHMENT A

FIELD STRENGTH MEASUREMENTS OF NORTHLAND CABLE PROPERTIES,
SANDERSVILLE/TENNILLE, GA

MEASUREMENT DATE: MARCH 5, 2003

FREQUENCY: 121.2625 MHZ

	Measurement Location	Leakage Field Strength, $\mu\text{V/m}$
1	218 Richmond St.	672
2	633 Evergreen Dr.	286
3	Richmond St. @ Kinny St.	710
4	518 Kinny St.	260
5	508 Floyd St.	188
6	603 Floyd St.	152
7	608 Temple Dr.	242
8	307 Evans St.	351
9	Evans St. @ Carver St.	170
10	Carver St. @ Lovett St.	132
11	318 Carver St.	84
12	Spring St. @ Green St.	209
13	Spring St. @ Floyd St.	185
14	311 South Smith St.	138
15	219 E. Church St.	392
16	225 E. Church St.	383
17	333 Hines St.	672
18	Across street from 215 Cypress St.	931
19	219 N. Smith St.	180
20	N. Smith St. @ old Coca Cola Plant	357
21	703 Sun Hill Rd.	792
22	215 E. Church St.	282
23	Richmond St. @ E. Church St.	373
24	Jernigan St. @ Fire Station	696
25	Warthen St. @ Ridgeland Dr.	527
26	440 Orchard Ln.	259
27	212 Cook St.	866
28	228 Cook St	910
29	513 Ridgeland Dr.	235
30	130 Daniel St.	323
31	529 MLK Dr.	331
32	540 MLK Dr.	373

33	109 Chandler St., Tennille, GA	527
34	540 Carver St., Tennille, GA	179
35	Carver St. @ Lincoln Dr., Tennille, GA	303
36	Smith St. @ Booker T. Washington St., Tennille, GA	292
37	114 Adams St., Tennille, GA	600
38	Mathews Rd. @ Chandler St., Tennille, GA	552